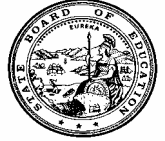


CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; Room 5111
Sacramento, CA 95814



TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Instruction Materials Follow-Up Adoptions

[Notice published March 26, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **1:00 p.m. on Monday, May 10, 2004** at 1430 N Street, Room 1101, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Monday, May 10, 2004**. The State Board will consider only written comments received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority cited: Sections 33031 and 60206, Education Code.

Reference: Sections 32060-32066, Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to amend Sections 9515 and 9517 of and add Section 9517.1 to the *California Code of Regulations* (CCR). These sections concern the adoption of instructional materials for California public schools in grades K-8 and the implementation of follow-up adoptions.

The purpose of the regulations is to establish the process for follow-up adoptions and the fee to be paid by publishers and manufacturers for participation in follow-up adoptions of instructional materials for grades K-8.

Education Code Section 60200(b)(1) calls for adoptions to occur “not less than two times every six years” for language arts, mathematics, science, and social science and “not less than two times every eight years” in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a “primary adoption” and creates a new adoption list. A “follow-up adoption” is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption.

Education Code Section 60227 gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in follow-up adoptions. The fee collected are to be used to offset the cost of conducting the adoption. Small publishers and small manufacturers may request a reduction in the fee from the Board.

CCR, Title 5, Section 9515 is proposed to be amended to define “primary adoption.”

CCR, Title 5, Section 9517 is proposed to be amended to reflect changes in practice and terminology. It also clarifies that follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

CCR, Title 5, Section 9517.1 is proposed to be added to clarify the procedures for the follow-up adoption, including the distribution of a notice to publishers and manufacturers and the establishment of a fee for the review.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: Minor. Amount not covered by fee is absorbable within existing resources.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The imposition of fees assessed on publishers and manufacturers is attributable to statute; therefore the regulations do not impose a fiscal impact on the private sector.

Adoption of this regulation will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations do not have an effect on small business because they reflect the requirements of Education Code Section 60227.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Patrice Roseboom, Associate Governmental Program Analyst
California Department of Education
Curriculum Frameworks and Instructional Resources
1430 N Street, 3rd Floor
Sacramento, CA 95814
E-mail: proseboo@cde.ca.gov
Telephone: (916) 319-0881
FAX: (916) 319-0172

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed

text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulation as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Website at <http://www.cde.ca.gov/re/lr/rr>

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Patrice Roseboom, Curriculum Frameworks and Instructional Resources, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 319-0881; fax, (916) 319-0172. It is recommended that assistance be requested at least two weeks prior to the hearing.